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TOPGYAL, GELEK W				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/930,756

**Applicant(s)**

WAKAHARA, TATSUYA

**Examiner**

GELEK TOPGYAL

**Art Unit**

2621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4-6, 8-10, 12-14, 18-25, 28, 31, 32, 34 and 55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 8-10, 12-14, 18-25, 28, 31, 32, 34 and 55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/6/2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 10/5/2009 have been fully considered but they are not persuasive. In re pages 11-12, the applicants present the argument that the newly presented limitations of "each possible format of the content being cross-referenced to a plurality of copy control types and a plurality of digital recording control data" is not taught by any of the cited references.

3. In response, the examiner respectfully disagrees. In col. 19, lines 1-43, the discussion regarding the four different copy protection data (CGMS, SCMS, APS, DSB) is presented. As illustrated in Fig. 20, the four different copy protection data each has their sets of "copy control types" and "digital recording control data". Regarding digital television content, the copy control types are met by CGMS' 11, 10 and 10 types and digital recording control data is met by SCMS' 11, 10, 00. Regarding digital audio content, the copy control types are met by SCMS' 11, 10 and 10 types and digital recording control data is met by CGMS' 11, 10, 00. Regarding digital data content, the

copy control types are met by DSB's 1\* and 0\* types and digital recording control data is met by CGMS' or SCMS' 11, 10, 00 types. The "copy control types" and "digital recording control data" are cross referenced since they are 1) packetized together (between col. 17 and 18) and 2) used in conjunction (TABLE 1 in Col. 21) by a receiving/recording device to determine which one to use.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-2, 5-6, 9, 10, 13, 14, 18-23, 25, 32, 34 and 55** are rejected under 35 U.S.C. 103(a) as being anticipated by Wonfor et al. (US 6,381,747) in view of Okuyama et al. (US 5,987,126).

**Regarding claim 1**, Wonfor et al. teaches an information processing device, characterized by comprising:

judging means for judging whether restriction on recording is imposed on a program which a user desires to watch and listen to (Tables 1-2 and col. 5, line 58 through col. 6, line 26 teaches a conditional access system module 38 that receives copy protection control information. The CPU 40 then controls the con access system module 38 to determine the contents of the copy protection control information);

analyzing means for analyzing the restriction if it is judged by said judging means that the restriction on recording is imposed on the program (Tables 1-2 and col. 5, line

58 through col. 6, line 26 teaches a conditional access system module 38 that receives copy protection control information. The CPU 40 then controls the con access system module 38 to determine the contents of the copy protection control information); and

display control means for controlling a display to display on a screen a message concerning an analysis result of said analyzing means, (Col. 11, line 45+ teaches that a user interacts and "selects the "pay-to-tape option"". It's inherent that a pay per view service has a GUI, and with the ability of the user to select an option to pay to record a PPV program, a message concerning the payment has to have been displayed as well);

Although the system of Wonfor et al. allows for the judging of a restriction placed on a particular program, it fails to particularly teach that said analyzing is based on whether the type of content included in the program is digital television content, digital audio content, or digital data content, and said analyzing is further based on the format of the content included in the program.

In an analogous art, Okuyama et al. teaches the claimed wherein said analyzing is based on whether the type of content included in the program is digital television content (col. 17, line 40 - col. 18, line 4 teaches of CGMS management information for digital video), digital audio content (col. 17, line 40 - col. 18, line 4 teaches SCMS management information for digital audio), or digital data content (col. 17, line 40 - col. 18, line 4 teaches DSB management information for a DVD-ROM), and said analyzing is further based on the format of the content included in the program (col. 17, line 40 - col. 18, line 4 teaches of detecting from an incoming video stream whether its is of a digital format (CGMS, SCMS, DSB) or whether the format is an analog format

(Macrovision (APS))), each possible format of the content being cross-referenced to a plurality of copy control types and a plurality of digital recording control data (In col. 19, lines 1-43, the discussion regarding the four different copy protection data (CGMS, SCMS, APS, DSB) is presented. As illustrated in Fig. 20, the four different copy protection data each has their sets of "copy control types" and "digital recording control data". Regarding digital television content, the copy control types are met by CGMS' 11, 10 and 10 types and digital recording control data is met by SCMS' 11, 10, 00. Regarding digital audio content, the copy control types are met by SCMS' 11, 10 and 10 types and digital recording control data is met by CGMS' 11, 10, 00. Regarding digital data content, the copy control types are met by DSB's 1\* and 0\* types and digital recording control data is met by CGMS' or SCMS' 11, 10, 00 types. The "copy control types" and "digital recording control data" are cross referenced since they are 1) packetized together (between col. 17 and 18) and 2) used in conjunction (TABLE 1 in Col. 21) by a receiving/recording device to determine which one to use). It is noted that Okuyama et al. receives the input video stream and then packetizes them and sends the data to the receiving data processing circuit 223 (Fig. 16), wherein the restrictions that were initially detected in the "transmission" side of the apparatus 201 is implemented on the future recording.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the ability to analyze a restriction on a program based on whether the type of content is digital television content, digital audio content, digital data content and further based on the format of the content as taught by

Okuyama et al. into the system of Wonfor et al. to enhance the restriction capability by applying restrictions to a greater array of data types.

**Regarding claim 2**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 1 above, furthermore, Wonfor et al. teaches the claimed wherein in accordance with each of a case where said analyzing means determines that analog recording is released by paying an additional fee (Col. 11, line 45+ teaches that a user interacts and "selects the "pay-to-tape option"". It's inherent that a pay per view service has a GUI, and with the ability of the user to select an option to pay to record a PPV program, a message concerning the payment has to have been displayed as well. In order for the customer to purchase or cancel the recording, buttons/symbols (e.g. "Yes", "No" buttons) must be displayed so that the customer can select that particular function.), a case where said analyzing means determines that analog recording is allowed, but digital recording is not allowed (as discussed above, and additionally, Wonfor only allows the programs to be stored in a magnetic tape and teaches in Fig. 2, between elements 10 and 24, that the video to be recorded is an analog video output) and a case where said analyzing means determines that neither analog recording nor digital recording is allowed, said display control means controls the display on the screen to make the user recognize the respective cases (Col. 11, lines 45-53 and Table 2 teaches situations where any type of recording of the program is prohibited, therefore, a digital copy and analog copies are prohibited altogether).

**Claims 5-6 and 9-10** are rejected for the same reasons as discussed above in claims 1 and 2, respectively, because a device inherently uses methods to accomplish its' tasks.

**Claim 13** is rejected for the same reasons as discussed in claim 1 above, and additionally, Wonfor et al. teaches a display (Fig. 2, TV displays 22 and 28), and teaches a microcontroller (met by CPU 40 in the discussion of claim 1 above).

**Regarding claim 14**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 13 above, and furthermore, Wonfor et al. teaches in Fig. 2 of a Digital PPC Set Top Box 10 that receives the broadcast programs.

**Regarding claim 18**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 13 above, and furthermore, Wonfor et al. teaches the claimed wherein said display is adapted to display said program (Fig. 2, TV 22) and said instructions further comprise instructions for causing said processor to perform said identifying, said analyzing and said controlling steps before said display of said program (A CPU 40 processes the copy control information (as discussed above in claim 13) before the program is displayed. In a PPV service, the conditions as listed in Table 2 are processed prior to the viewing/recording of the program).

**Regarding claim 19**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 13 above, and furthermore, Wonfor et al. teaches the claimed wherein said program requires paying money for said display of



said program (Col. 11, lines 45-54 teaches that a user is billed for purchasing a program for a display purpose).

**Regarding claim 20**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 13 above, and furthermore, Wonfor et al. teaches the claimed wherein said system further comprises a recorder adapted for copying said program (A recorder 24 in Fig. 2 is adapted to copy the program.) and said instructions further comprise instructions for causing said processor to perform said identifying, said analyzing and said controlling steps before said copying of said program (A CPU 40 processes the copy control information (as discussed above in claim 13) before the program is displayed. In a PPV service, the conditions as listed in Table 2 are processed prior to the viewing/recording of the program).

**Regarding claim 21**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 13 above, and furthermore, Wonfor et al. teaches the claimed wherein said program requires paying money for said copying of said program (Col. 11, lines 53-65 teaches that a user is billed for purchasing a program for a recording purpose).

**Regarding claim 22**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 13 above, and furthermore, Wonfor et al. teaches the claimed wherein said instructions further comprise instructions for causing said processor to perform the step of controlling said display to display a menu containing interactive prompts for receiving said person's input (As discussed in claim

13 above (via claim 1), an inherent feature of a PPV purchase transaction includes a GUI interface, which has menus and interactive prompts).

**Regarding claim 23**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 13 above, and furthermore, Wonfor et al. teaches the claimed wherein said prompts include a prompt for said person to acknowledge the presence of said copy-protected data within said program (As discussed above in claim 13 (via claim 1), when a user decides to purchase the ability to copy the program, he has acknowledged the copy protection information).

**Claim 25** is rejected for the same reasons as discussed in claim 18 above, since user can pay to view or record the program.

**Claim 32** is rejected for the same reasons as discussed in claim 13 above, when the display shows the options to select a program for viewing/recording, the system has been controlled to display the copy protection information.

**Claim 34** is rejected for the same reasons as discussed in claim 13 above, because a device inherently uses methods to accomplish its' tasks.

**Claim 55** is rejected for the same reasons as discussed in claim 13 above, because a device inherently uses methods to accomplish its' tasks.

6. **Claims 4, 8, 12 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wonfor et al. (US 6,381,747) in view of Okuyama et al. (US 5,987,126) and further in view of Tsutsumi (US 5,737,477).

**Regarding claim 4**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 1 above, furthermore, Wonfor et al.

teaches a system where the copy protected information is displayed on the screen, but fails to particularly teach that the message is displayed for a predetermined time.

In an analogous art, Tsutsumi teaches of a system where a message displayed to a user via a display unit is removed from the display unit after a certain period of time (col. 5, lines 36-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to display a message on a display unit for only a predetermined time to increase user friendliness so that the user can continue to watch the program that was disturbed due to the display of the message.

**Claim 8** is rejected for the same reasons as discussed above in claim 4 because a device inherently uses methods to accomplish its' tasks.

**Claim 12** is rejected for the same reasons as discussed above in claim 4.

**Regarding claim 31**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 13 above, furthermore, Wonfor et al. teaches a system where the copy protected information is displayed on the screen, but fails to particularly teach that the message is displayed for a predetermined time.

In an analogous art, Tsutsumi teaches of a system where a message displayed to a user via a display unit is removed from the display unit after a certain period of time (col. 5, lines 36-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to display a message on a display unit for only a predetermined

time to increase user friendliness so that the user can continue to watch the program that was disturbed due to the display of the message.

7. **Claim 24** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wonfor et al. (US 6,381,747) in view of Okuyama et al. (US 5,987,126) and further in view of Alten et al. (US 5,781,246).

**Regarding claim 24**, the proposed combination of Wonfor et al. and Okuyama et al. teaches the limitations as discussed in claim 22 above, furthermore, Wonfor et al. teaches that a program can be viewed and recorded, but fails to specifically teach that while watching a program, the user has the ability to cancel viewing the program or cancel displaying of said information.

In a related art, Alten et al. teaches that while watching a certain channel, a user can change the channel by entering a channel number by way of a keypad or by using channel up/down buttons. When the user changes the channel, the program being viewed is no longer displayed on the screen, and thereby cancelled for viewing (col. 12, lines 43-54).

A user is able to maneuver through numerous channels by way of a remote control with channel changing buttons. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the ability to change channels into the proposed combination of Wonfor et al. and Okuyama et al.'s system to increase user friendliness by giving the user an option to watch what he wants at any given time.

8. **Claim 28** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wonfor et al. (US 6,381,747) in view of Okuyama et al. (US 5,987,126) and further in view of Horlander et al. (US 6,507,953).

**Regarding claims 28**, the proposed combination of Wonfor et al. and Okuyama et al. teaches in his system of prohibiting recording of desired programs, but the proposed combination fails to expressly disclose that the recording can be of analog or digital format.

Horlander teaches in col. 10, lines 14-42 of copyright data that prohibits the following recordings: digital (33h), analog (31h), and neither digital nor analog (34h). Having a digital copy of a program allows a user to make non-deteriorating copies. Such a situation is unfavorable from the viewpoint of copyrights. The quality of an analog copied program will not be long lasting, and thereby inhibit more copies made in future due to the deteriorating data stored on the magnetic tapes. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the proposed combination of Wonfor et al. and Okuyama et al. to classify the type of allowable recordings into analog, digital, and neither.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GELEK TOPGYAL whose telephone number is (571)272-8891. The examiner can normally be reached on 8:30am -5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 2621

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